

FEB. 2. 2004 1:06PM

NO. 6916 P. 1

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**FAX COVER SHEET**

Date: February 2, 2004

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**Recipient(s):**

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MATTHEW MEISNER	Arnold & Porter	202-942-5999	202-942-5000

From: Thomas L. Long

Re:

Pages (Including Cover Sheet): 3

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February 2, 2004

**VIA TELECOPIER**

Matthew Meisner, Esq.  
Arnold & Porter  
555 Twelfth Street NW  
Washington D.C. 20004-1206

Re: Subpoena to Cardinal Health, Inc. in the Matter of J.B.D.L. Corp. d/b/a Beckett  
Apothecary, et al. v. Wyeth-Ayerst Laboratories, Inc., et al.

Dear Matt:

This will confirm our discussions today regarding Cardinal Health's position regarding the subpoena previously served on it in the above-captioned case. I thought it best to simply put in writing Cardinal Health's position following our recent telephone conferences. As we did during our telephone conference, I will review each request.

As to requests 1 through 4, Cardinal Health stands by the objections raised in its response that such information is not proper discovery in such a matter under the doctrine set forth in the *Hanover Shoe, Illinois Brick*, and the *UtiliCorp* cases.

Cardinal Health will produce the electronic data requested in request number 5. As I explained, it is extremely helpful if you provide us with NDC code information for the drugs to be included in the database. Once we receive the NDC information, the Cardinal Health IS Department will work very quickly to produce the information.

In response to request number 6, Cardinal Health again asserts its objections to downstream discovery as set forth in Cardinal Health's general objections based upon the standards in the *Hanover Shoe, Illinois Brick* and the *UtiliCorp* cases.

As to request number 7, Cardinal Health does not believe it has any such materials.

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In response to request numbers 8 and 9, Cardinal Health once again objects to the downstream discovery as prohibited by the *Hanover Shoe, Illinois Brick*, and the *UtiliCorp* cases.

As to request numbers 10 and 11, Cardinal will reproduce the materials from the Duramed litigation. However, those materials were covered by a protective order. It is my understanding you will contact Barr Labs to obtain its permission for Cardinal Health to release the documents. As I mentioned to you, we will determine if there has been an update of any materials since the documents were produced in the Duramed litigation.

In response to request number 12, Cardinal Health will produce the assignments. In response to the next request which is erroneously numbered 11, Cardinal Health will provide the electronic data requested.

In response to requests 13 and 14, Cardinal Health again objects on the basis of the doctrine set forth in the *Hanover Shoe, Illinois Brick* and the *UtiliCorp* cases.

As to request number 15, Cardinal Health is not aware of any such documents responsive to this request.

As to request number 16, although it only seeks organizational charts, the information sought is designed solely to obtain information for downstream discovery purposes. As a consequence, Cardinal Health objects to this request based on the doctrine set forth in the *Hanover Shoe, Illinois Brick* and the *UtiliCorp* cases.

It is my understanding that you will be furnishing us with the NDC information sufficient to run the electronic data. In addition, you will obtain some type of notification from Barr Labs permitting Cardinal Health to produce the Duramed litigation documents.

Thank you for your assistance.

Very truly yours,

  
Thomas L. Long